

**FILED**

SEP 19 2013

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CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

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8 Attorneys for the United States

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN JOSE DIVISION

14 UNITED STATES OF AMERICA, ) No. CR 5:13-MJ-70031 HRL  
15 Plaintiff, ) STIPULATION AND [PROPOSED]  
16 v. ) ORDER CONTINUING APPEARANCE  
17 JASON KEITH SMITH, ) DATE AND EXCLUDING TIME FROM  
Defendant. ) THE SPEEDY TRIAL ACT  
 ) CALCULATION (18 U.S.C.  
 ) § 3161(h)(8)(A))

20 This matter is scheduled before the Court for an preliminary hearing or arraignment on  
21 September 19, 2013. On January 14, 2013, this Court issued a criminal complaint against the  
22 defendant related to a violation of 18 U.S.C. 875(c) - Interstate Communications of a Threat.  
23 The defendant, who resides in the Eastern District of Michigan, was arrested and made an initial  
24 appearance on January 22, 2013 in Detroit before United States Eastern District of Michigan  
25 Magistrate Judge Laurie J. Michelson. The defendant is currently represented by Northern  
26 District of California CJA Panel Counsel Carleen Arlide and Eastern District of Michigan  
27 Assistant Federal Public Defenders Penny R. Beardslee and Loren E. Khogali. On January 23,  
28 2013, Judge Michelson ordered the defendant released pursuant to conditions, ordered the  
STIPULATION AND [PROPOSED] ORDER  
CR 5:13-MJ-70031 HRL

1 defendant be transferred to the Northern District of California for further proceedings, excluded  
2 time, and ordered the defendant to appear in the Northern District of California on March 14,  
3 2013 at 9 a.m. That initial appearance date was subsequently continued via the parties  
4 stipulation to September 19, 2013.

5 The United States and the defendant now jointly request a continuance until December  
6 19, 2013 in order to afford defense counsel additional time to effectively prepare and also to  
7 allow the parties a further opportunity to discuss a potential pre-indictment resolution of the  
8 mattter. The parties agree, and the Court finds and holds, as follows:

9 1. The preliminary hearing or arraignment is continued to December 19, 2013.  
10 2. Time should be excluded under Rule 5.1 from September 19, 2013 to December  
11 19, 2013 in order to allow defense counsel additional time to effectively prepare and also to  
12 allow the parties an opportunity to discuss a potential pre-indictment resolution of the mattter.  
13 The parties agree that the continuance is proper under Rule 5.1 of the Federal Rules of Criminal  
14 Procedure and 18 U.S.C. § 3060.

15 3. The time between September 19, 2013 and December 19, 2013 is excluded under  
16 the Speedy Trial Act. The parties agree that the failure to grant the requested continuance would  
17 unreasonably deny defense counsel reasonable time necessary for effective preparation, taking  
18 into account the exercise of due diligence. Finally, the parties agree that the ends of justice  
19 served by granting the requested continuance outweigh the best interest of the public and the  
20 defendant in a speedy trial and in the prompt disposition of criminal cases. 18 U.S.C. §

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STIPULATION AND [PROPOSED] ORDER  
CR 5:13-MJ-70031 HRL

1 3161(h)(8)(A).

2 STIPULATED:

3 DATED: 9/18/13

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5 DATED: 9/18/13

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7 IT IS SO ORDERED.

8 DATED: 9/19/13

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/s/  
CARLEEN ARLIDGE  
Counsel for Defendant Smith

/s/  
JOSEPH FAZIO  
Assistant United States Attorney

HOWARD R. LLOYD  
UNITED STATES MAGISTRATE JUDGE